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C O N F I D E N T I A L SECTION 01 OF 02 TEL AVIV 001062

SIPDIS

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TAGS: [PREL](#) [KWBG](#) [IS](#) [SETTLEMENTS](#) [GOI](#) [INTERNAL](#)

SUBJECT: NIRIT'S RESIDENTS HAVE A LONG DAY IN COURT AND
COME HOME EMPTY-HANDED... FOR NOW

REF: A. TEL AVIV 06649

[B](#). TEL AVIV 00511

[C](#). TEL AVIV 00659

Classified By: Economic Counselor William Weinstein for reasons 1.4 (b)
and (d)

[1](#). (C) Summary: Dror Ginatt, secretary general of the Israeli town of Nirit on the west side of the Green Line, described Nirit's hearing in the High Court to stop construction of Nof HaSharon as arduous but felt that Nirit got a fair trial. He explained that the three judges, among them Aharon Barak, were initially dismissive when the residents argued their case on political grounds -- GOI commitments to the U.S. not to expand settlements -- and that the judges initially told the residents to consider withdrawing their petition from the court. The judges became more receptive, however, when Nirit's lawyers discussed the complications of providing municipal services to the neighboring settlement that will be built on the east side of the Green Line and when they talked about the impact the settlement would have on the community values of Nirit. Ginatt noted that the hearing was unusual in the amount of time it took and in the fact that the judges did not announce their decision right away. He expressed guarded optimism that the delay meant the judges were seriously considering the petition. Arie Han, a resident of Nirit, speculated that an article by Aluf Benn in Ha'aretz on February 11 reporting that the U.S. administration is against construction of Nof HaSharon may have had an impact on the judges, as well. End summary.

Difficult Day in Court

[2](#). (C) Dror Ginatt, secretary general of the Israeli town of Nirit on the west side of the Green Line, told economic officer on February 16 that the residents' hearing at the High Court to stop construction of the new settlement of Nof HaSharon was "very long and serious." According to Ginatt, the February 13 hearing lasted over two and a half hours, and in the end, the three judges asked for more time to deliberate the matter, saying they would announce their final decision the week of the 21st. Ginatt opined that the fact that the judges did not make a decision on the spot was good because it means they are seriously considering the issue, since normally they would make a decision after hearing a case for "10 minutes."

[3](#). (C) Ginatt explained that the first half hour of the hearing consisted of Nirit's lawyers arguing the political merits of their case (Note: Nirit filed the petition claiming that Nof HaSharon is illegal because the GOI made commitments to the USG not to expand settlements. End note). The judges almost dismissed the case at this point, and according to Arie Han, a resident of Nirit, they "attacked" Nirit's lawyers and accused the residents of trying to back out of the agreement they made years ago with the private developers who are undertaking the construction project. Han and Ginatt said the judges told them to "take a break" and consider withdrawing the petition from the court.

[4](#). (C) According to Ginatt, upon returning from the break, Nirit's residents and their lawyers insisted that they wanted a decision from the High Court on the legality of the settlement and told the judges that they would not withdraw their petition. They also provided more information on the housing development, and showed the judges a map of the location in question. Ginatt related that the map was eye-opening for the judges because "they did not realize the distance between Alfe Menashe and Nof HaSharon" from the materials the judges had studied prior to the hearing. Nirit's lawyers also discussed the planning and development issues of where Nof HaSharon would get its municipal services and infrastructure because it is too far from Alfe Menashe to be supported by the mother settlement.

[5](#). (C) After arguing the logistical difficulties of providing support to Nof HaSharon, Ginatt reported that the third part of the hearing consisted of a discussion of Nirit's community values, which the lawyers said would suffer because outside residents would be forcing themselves on Nirit and would damage the environment of "volunteerism." He said that Ilan Niv, Nirit's chairman, was allowed to speak to

the judges and that it made "a big impact" on them. According to Ginatt, it was unusual that Niv was able to speak directly to the court because normally only lawyers speak to the judges.

16. (C) Ginatt also told econoff that there has been an "obvious reduction" in the pace of construction over the past few days. He was unsure if the slow-down was caused by the weather or the upcoming hearing, but that it was noticeable regardless.

We'll See, But It Was Fair

17. (C) Ginatt expressed his gratitude to the High Court for giving Nirit's residents so much time to argue their case, and although he is not entirely optimistic that the judges will rule in their favor, he said that he felt they got a fair trial and were able to express their point of view as thoroughly as possible. Han speculated that Aluf Benn's article in Ha'aretz on February 11 may have encouraged the judges to take their time when coming to a decision on Nirit's petition (Note: In "Why Was This Summit Different?" Benn claimed that "The U.S. administration also opposes the building of a new outlying neighborhood in Alfe Menashe adjoining the Nirit settlement on the Green Line." End note).

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